



## Response to a first Office Action Rejection

Application SN. 10/673,868

This communication is a response to a first Office Action Rejection having a mailing date of 11/02/2005 and setting forth a shortened statutory period for response of three months which would expire on 02/02/2006.

### Remarks

The examiner has rejected claims 1, 2 and 4 as being anticipated by May (US Patent No. 5,889,730. The examiner states that: "May teaches an under water communication system comprising a radio signal located above water". This is incorrect. Applicant is claiming a radio sending unit located above water. The May reference does not teach or use a radio sending unit to be located above water. In column 3, lines 5 - 26 indicate that the radio system is used to communicate with other divers in the water or at the surface of the water. This in no way indicates that the system works above water, as is claimed. Furthermore, applicant claims the inclusion of earphones. May does not use any earphones at all but uses a bone conducting sound transmission which is accomplished by a at least one bone conduction transducer assembly which is located over the mastoid bone which is located behind the ear. Furthermore, applicant's radio system only works from a sending unit located above the water to a receiving unit located within the body of the water. Any communication between divers in the water cannot take place and is not intended to be. Because of all of the above, the May reference cannot anticipate the claimed invention because it is altogether different what is claimed. Therefore, the examiner is respectfully requested to withdraw the rejection made and pass this application to an early indication of allowability.

Kamal Farhat

Date:

1/26/06